

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

## LATASHA DORTCH,

**Defendant.**

**CASE NO. 8:07CR258**

## TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 47). The Court has also reviewed the Defendant’s motion for variance (Filing No. 48), motion for downward departure (Filing No. 49), and sentencing statement (Filing No. 50). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 32 (obstruction of justice) and 45, 46 and 48 (criminal history points). The objections are discussed below.

**¶ 32 - U.S.S.G. § 3C1.1 - Obstruction of Justice**

The Defendant objects to the 2-level enhancement for obstruction of justice. The government bears the burden of proof by a preponderance of the evidence. The objection will be heard at sentencing.

### ¶¶ 45, 46 and 48 - Criminal History Points

The Defendant is assessed one criminal point for each of the offenses set out in §§ 45 and 46. It appears from the Addendum to the PSR and the Defendant's motion for downward departure that the Defendant does not object to the application of the sentencing guidelines. Rather, she appears to argue that two criminal history points

overstates her criminal history. The objection to ¶¶ 45, 46 and 48 is denied, and the issue will be considered in conjunction with the motion for downward departure.

IT IS ORDERED:

1. The Defendant's Objections to ¶¶ 45, 46 and 48 of the Presentence Investigation Report (Filing No. 47) are denied;
2. The Defendant's objections to ¶ 32 of the PSR will be heard at sentencing;
3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
5. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 17<sup>th</sup> day of March, 2008.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge